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EX PARTE OR LATE FILED

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ORIGINAL

June 3, 1999

VIA HAND DELIVERY

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
Office of the Secretary - Room TWB-204
445 Twelfth Street, SW
Washington, DC 20554

RECEIVED
JUN 3 1999
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Ex Parte: CC Docket Nos. 98-121 and 98-56

Dear Ms. Salas:

On June 2, 1999, I faxed the attached letter and proposal to Michael Pryor, of the Common Carrier Bureau's Policy and Program Planning Division on behalf of MCI WorldCom and AT&T. Please include this filing in the record of the above-referenced proceedings.

Two copies of this Notice are being submitted in accordance with Section 1.1206 of the Commission's rules.

Sincerely,

Karen T. Reidy

Karen T. Reidy

Attachments

cc: Michael Pryor
Frank Simone, AT&T

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Michael Pryor
Policy and Program Planning Division
Common Carrier Bureau
Federal Communications Commission
445 Twelfth Street, SW
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Dear Michael:

As you requested, attached is a performance remedies proposal prepared by AT&T and MCI WorldCom. The objective of this proposal is to ensure that prior to a grant of section 271 authorization for any state, there must be a remedy plan in place that provides a sufficient financial incentive for the Bell Operating Company ("BOC") to provide nondiscriminatory and commercial quality service to CLECs.

The Tiered Approach to Remedies

The tiered approach outlined in the attached proposal (1) ties the amount of the remedy to the magnitude and duration of the violation, and (2) takes into account the effect of an ILEC's poor service on the development of local competition.

Baseline Remedies. Baseline remedies (paid to the CLEC) are imposed for a failure to provide parity with the service and support the ILEC provides its own retail customers and affiliates, or for a failure to meet an objective benchmark.

Escalation Remedies. As performance deviates farther from the required level, or if a performance failure continues for more than one month, remedies paid to the CLEC should increase accordingly. A statistical methodology should be used to determine when higher remedies should apply for the parity standards. When benchmark standards are missed for several months or by a specified amount, higher remedies are also invoked.¹

Market Suppression Penalties. Aggregate market suppression penalties should supplement remedies paid directly to CLECs. Market suppression penalties apply when performance results for the CLEC industry as a whole show a pattern of substandard

¹ See Attachment A, page 6. Consequences are increased according to (a) the degree of the performance failure (z score range for parity and specific percentage or incident range for benchmarks) and (b) the repetitive nature of the performance failure.

performance. Such consequences would be paid into a government-created fund.² This fund could be used to support independent audits of the ILEC's performance or for some other purpose for which the ILEC would not receive a direct benefit (e.g., the fund should not be used for universal service support that would go to the ILEC). To determine whether market suppression penalties would apply, results for parity and benchmark violations are calculated using data aggregated for the CLEC industry as a whole. Performance data regarding any affiliate of the ILEC would not, of course, be included in the CLEC industry data, regardless of its certification as a CLEC; otherwise a BOC could distort its industry results with superior service to its affiliate.

In-region long distance authority should not be granted if the performance data submitted to support a 271 application would subject the applicant to a market suppression penalty. However, the fact that performance is not so poor as to justify a market suppression penalty does not demonstrate section 271 compliance.

Results of the Statistical Methodology (Use of the "Modified Z" Score)

For the parity standards,³ the Local Competition Users Group (LCUG) "modified z score" should be used. The critical value of the modified z score allows conclusions to be drawn, at a preset level of error risk, regarding whether the performance delivered to the CLEC was at parity with that experienced by the ILEC (or any affiliate of the ILEC). Based upon data currently available to CLECs, if the critical value is -1.04,⁴ the risk of an erroneous "out of parity" conclusion is balanced with the risk of an erroneous conclusion that parity exists. Because a statistical test is employed, a limited number of performance failures will be tolerated before any consequences are applied.

If, however, a more conservative critical value of -1.645 is employed, as advocated by some parties, the Commission should recognize that the risk of erroneous conclusions of non-parity (also called Type I errors) is very low, only 5%. But the risk of undetected instances of non-parity (also called Type II errors) is much higher, nearly 15%. If -1.645 were set as the critical value, no minimum number of misses should be allowed; rather, each instance of a modified z score worse than the critical value should result in a monetary consequence.

"Weighting" of the Metrics

AT&T and MCI WorldCom believe that "weighting" of metrics is inappropriate because it permits an ILEC to engage in strategic, targeted discrimination. However, if

² Such a fund would supplement, not supplant, remedies paid directly to CLECs for various harms related to the disparate treatment. Such payments would add to the deterrent effect of the remedies without raising concerns about undue enrichment for CLECs.

³ In this context, a parity standard is employed when the ILEC provides data for a reasonably analogous retail operation so as to permit a direct comparison, through statistical techniques, of the CLEC and ILEC results.

⁴ Generally, results less favorable to the CLEC are represented by a negative number. In some cases, depending on whether success or failure is measured, the critical value may be expressed as a positive number that reflects worse performance for the CLEC than ILEC. (For example, "out of service greater than 24 hours" or "out of service less than 24 hours" would have different meanings for positive and negative z scores.)

the Commission seeks further gradation in the applicable remedies structure, AT&T and MCI WorldCom suggest that the metrics be divided into two categories: (1) ***Immediate Customer and Competition Affecting***; and (2) ***Lagging Customer and Competition Affecting***. Immediate Customer and Competition Affecting measures carry a higher (for example \$30,000⁵) remedy per submetric. Lagging Customer and Competition Affecting measures would carry a lower (for example, \$20,000) remedy per sub metric.

AT&T and MCI WorldCom do not endorse a “credit” remedy format because it would not have the same financial impact on the ILEC as monies directly paid to the CLEC each month. In addition, a credit format allows ILEC gaming; ILECs can engage in targeted performance variation and performance failures that impede competition and harm CLECs without triggering any consequences (through credit offsets for “good” performance).

Caps on ILEC Liability

AT&T and MCI WorldCom oppose setting a maximum liability or “cap” on the amount for which the ILEC may be liable. The per measure caps Bell Atlantic proposed in New York, for example, would have the perverse effect of reducing remedies for all types of ILEC interfaces whenever a new interface (or query type) is added to those being measured. Uncertainty of the maximum amount of exposure discourages strategic discrimination by the ILEC and presents it with a greater incentive to provide the requisite support.

It is important to remember that the ILEC can avoid any payment by providing competition-sustaining performance. Without a maximum liability cap, the ILEC cannot weigh the cost of corrective action or the cost of lost market share against its maximum exposure in a remedy system. Nevertheless, this proposal accommodates a “trigger” for automatic regulatory review if remedies to any particular CLEC in a month exceed a pre-set amount.

Disaggregation of Measures

The proposal identifies measures for which violations automatically should call for remedies. It is essential to note that ILEC reporting of these measures must be at sufficiently disaggregated levels to enable CLECs and regulators to compare retail to wholesale performance fairly. Reporting at a high level of aggregation allows an ILEC to mask inferior performance. This masking occurs because fundamentally different performance conditions are averaged into a single result. Averaging of dissimilar situations produces increased measurement variance which, in turn, makes detection of non-parity performance more difficult (i.e., the difference in performance must be larger before a failure is declared).⁶ Attachment A of the LCUG Service Quality Measurements

⁵ The baseline remedies would need to be reevaluated periodically as to their deterrent effect. At some point, the recommended consequences may not even exceed the ILEC’s bill to the CLEC for the substandard service. In all cases, the amount of the remedy must remain significant enough to deter the ILEC from discriminating against the more successful CLECs (those most threatening to its local revenues).

⁶ Although the ILEC may assert that the disaggregation is burdensome, statistical test procedures can be employed to identify where further disaggregation would not be explanatory of

Version 7 document discusses in detail the disaggregation that is necessary to monitor ILEC performance adequately. The attached proposal also provides some examples of critical levels of disaggregation, such as reporting resale and UNE-P separately, and separating xDSL loops from other loops. CLECs may not yet be generating results at the maximum level of disaggregation, but such disaggregation is ultimately necessary to discourage any ILEC discrimination that may be aimed at a specific market entry plan. For instance, an ILEC grouping ISDN and DSL loops together could discriminate against a CLEC's DSL-focused market plan without triggering any remedies or regulatory review.

Section 271 Denial/Revocation

In no case should section 271 approval be granted when the data relied upon by a BOC shows discriminatory performance, whether for an individual CLEC or all CLECs in the aggregate. Following any grant of section 271 authorization, discriminatory performance should be a sufficient basis for considering prompt revocation of a BOC's section 271 authority. Further, repeated or broad failure of measures that fall under the *Immediate Customer and Competition Affecting* category, to the extent such a category is established, may indicate an overall market suppressing behavior and therefore should be closely examined by regulators. *Lagging Customer and Competition Affecting* measurements may also, if missed in sufficient quantity or levels of magnitude and duration, warrant a finding that a BOC is not in compliance with 271 obligations.

Because section 271 relief has such far-reaching implications, the BOC must demonstrate sustained stable performance, and it should also be capable of performing in a nondiscriminatory manner at volumes reflective of a fully competitive local market. Stable performance requires at a minimum that

- (1) Each performance measurement demonstrate three consecutive months of compliant performance (although not necessarily the same three month period for each individual measurement result), and
- (2) The aggregate performance delivered (for the CLEC industry as a whole) demonstrates nondiscrimination for a minimum of the most recent three consecutive months of data used to support the application.

Concerns with Existing Proposals

AT&T and MCI WorldCom previously provided criticism of the recent BellSouth remedies proposals. Questions that the Commission should consider, when evaluating subsequent submissions, should include, among others, the following list:

- Does any proposed scoring serve to mask the magnitude of the performance failure (e.g., does a 2-day miss trigger the same score and remedy as a 120-day miss)?
- Does the plan only consider aggregate performance for the CLEC industry, thus allowing individual CLEC harms to occur without redress?

differences in performance. The ILECs have the data necessary to make such demonstrations, and their failure to put such information on the table can only be construed as a tacit admission that LCUG's proposed level of disaggregation is reasonable.

- Does the ILEC propose to overcompensate for performance failure due to random variation—i.e., try to excuse misses even when the chance of undetected discrimination is nearly three times greater than the chance of a Type I error?
- Does the ILEC propose to use a statistical methodology or to institute other allowances for benchmark violations when setting the benchmark in the first place (e.g., at 95% or 98%) already took into account the number of performance failures that would be tolerated?
- Does the proposal include mechanisms that delay prompt payment of remedies, for example, by either requiring root cause analysis or proof of clustering events?⁷

Finally, AT&T and MCI WorldCom stress that proper performance remedies are not only essential to prevent “backsliding” once a BOC is offering in-region long distance service, but also are necessary to open all ILECs’ local markets in the first instance.

Sincerely,


Karen T. Reidy

cc: Eric Einhorn
Jake Jennings
Andrea Kearney
Claudia Pabo
Daniel Shiman

⁷ An ILEC may dispute results, but use of alternative dispute resolution or other adjudication should come after the payment of self-executing remedies to CLECs. CLECs also should have the right to use these forums to prove that parity results were incorrect and remedies are due.

MCI WORLDCOM AND AT&T JOINT REMEDIES PROPOSAL

OVERVIEW

An Effective Remedy Plan Must Include:

- Consequences that are severe enough to encourage compliance with performance standards and deter misconduct, rather than merely become an ILEC cost of doing business.

Price reductions and bill credits are inadequate to serve as a deterrent for poor performance.

- Consequences that escalate based on both the magnitude and duration of poor performance.
- Additional consequences for industry-wide poor performance.
- Minimal automatic exclusion of measurements or underlying data points from remedies to prevent ILECs from engaging in targeted poor performance.
- Predetermined consequences that are applied without delay and expense.
- Payments to individual CLECs harmed based on performance failures per metric.

I. Ensuring Sufficient Consequences in order to Irreversibly Open Local Markets to Competition

- A. Rebates of recurring or non-recurring charges associated with failed performance provide insufficient incentive to ensure compliance with "parity" and "reasonable opportunity to compete" requirements.

Remedies must:

1. Acknowledge that the impact of poor performance on competitors' reputation in market is immediate, long-lasting and extrapolated to all market participants.

2. Recognize that CLECs' ability to enter the market is gated by the reliability and quality of ILECs' operational processes and support systems.
 3. Address harm to CLEC customers' business that may result in liability for the CLEC.
- B. Curbing ILEC's Powerful Incentive To Protect Its Local Revenues Through Disabling Market Development. Remedy plans must:
1. Encourage ILEC to fix (not ignore) problems requiring OSS or network capacity capital, or human resource outlays.
 2. Reduce ILEC's ability and incentive to drive a competitor out of the market.
 3. Ensure that remedies apply on a per-measurement basis. Remedies based on aggregated combinations allow for targeted discrimination by the ILEC.
 4. Prohibit weighting and scoring methodologies, which provide opportunities to mask poor performance and frustrate independent monitoring.

II. Creating Self-Executing Remedies.

- A. For measures where the standard of performance is parity with analogous ILEC performance, remedies are applicable when the modified z parity scores are less than critical value.

A critical value of -1.04 should be used. At that value, the risk of Type I errors (false nonparity) and Type II errors (false parity) is equal at 15%. Since risk is equal for both types of errors, some substandard performance would be allowed, depending on the number of total measurements. A small level of forgiveness, such as CLECs have proposed in California of one every six months, may be appropriate. Conditions on when and where the forgiveness can be used are required to avoid gaming. If a higher statistical confidence level is used, the ILEC should not receive any further mitigation or forgiveness for random failures.

- B. Remedies must increase with magnitude, confidence, and duration of the miss (See Tables A and B for Parity and Benchmark measures).
- C. ILECs should be permitted to challenge the failed score, but must first pay the associated remedy to the CLEC, then pursue refund in a pre-defined dispute resolution process. CLEC may also use dispute resolution to challenge validity of parity scores.

- D. No absolute caps should be set on ILEC liability, but a threshold may be established to trigger regulatory review (procedural cap). The threshold or procedural cap should be set high enough to avoid burdening CLECs with constant litigation to receive remedies due. (For example, the CLEC consensus proposal in California recommends a \$10 million monthly review threshold for the CLEC industry, excluding failures at chronic and severe levels.) Uncertainty about the amount at risk creates a greater incentive to fix problems. ILECs cannot easily weigh the cost of corrective action versus the cost of "worst case" remedy liability. Regulatory review options in dispute resolution include:
 - 1. Regulator may decide to reduce remedy.
 - 2. Regulator may excuse some of remedy if problem was promptly fixed.
 - 3. Regulator may find remedies fully warranted.
 - 4. Regulator may take additional action to stop discriminatory behavior.
 - E. Any Weighted Aggregation of Performance Results/Scoring Must Be Extremely Limited (i.e. the two categories below). Each Category May Employ Different Remedy Amounts (See Tables C and D).
 - 1. Immediate Customer and Competition Affecting Measures: \$30,000 (base minimum) monthly per submetric failure.
 - 2. Lagging Customer and Competition Affecting Measures: \$20,000 (base minimum) monthly per submetric failure.
 - F. Remedies of \$10,000 per day would apply to non-regulatory approved late reports; remedies of \$500 multiplied by each missing submetric would apply per day for incomplete reports; remedies of \$1000 per day would apply for late corrective action plan reports where they are applicable.
- III. Accord greater consequences for greater certainty of disparity and magnitude of benchmark violations. A tiered approach satisfies these concerns.
- A. Baseline Tier -- paid to CLEC for violations of parity (scores less than critical value) or missed benchmarks. Base minimum remedy applies (see Tables A and B). Remedies must be based on performance by submetric and by individual CLEC. State may set additional (but not alternative) remedies based on CLEC aggregate results. Remedy

scores should not be aggregated together, and any affiliate of the BOC should not be included in the CLEC aggregate calculations. Two factors to consider in determining consequences:

1. Magnitude: as the modified z score worsens, consequences increase.
2. Duration: as degraded performance continues, the consequences increase.

B. Market Suppression Tier -- paid to state-created fund for harms to CLEC industry in the aggregate.

1. ILEC cannot receive any benefit from the fund.
2. Fund could be used to pay for reporting audits.
3. Market Suppression Penalty Calculated:
 - a. Determine the number of times in the prior 3, 6, and 12 months that an overall discrimination finding resulted (ILEC compared to the aggregate CLEC industry). Use -1.645 critical factor or objective benchmark for metric.
 - b. Apply adjustments per number of occurrences below:

First occurrence:	\$0.50/access line/month
Second occurrence (in 12 mo. Pd.):	\$1.00/access line/month
Each additional occurrence beyond two in 12 months:	\$2.00/access line/month

III. Measurements

All measures below (See Tables C and D) should have remedies attached that are based on the ILEC's performance delivered to individual CLECs, for each submetric missed. Each metric must be sufficiently disaggregated by product, interface used, geographic area and certain other competitive factors, to prevent targeted discrimination.

- A. At a minimum, disaggregation must include resale products of similar intervals, UNE and UNE combinations reflecting various and differing business plans of CLECs—e.g., separate reporting on POTS loops, DSL 2-wire, DSL 4-wire, ISDN 2-wire and ISDN-4 wire loops, 4-wire digital loops, interoffice facilities, switch ports, UNE-P, Enhanced Extended Loops, trunks by capacity and traffic type (i.e. 911, SS7, transport) and collocations by type.
- B. Geographic disaggregation should be by at least MSAs or LATAs to reflect differences in performance and competition in different areas of the state (e.g., urban vs. other areas).

- C. OSS reporting should be disaggregated by all interface types currently used by CLECs, such as EDI, web GUI, electronic bonding, fax, etc.
- D. Other disaggregation by trouble type and disposition, type of CLEC center, order activity affecting intervals—new versus migration, dispatch and nondispatch, with LNP, number of lines/orders, and preordering and maintenance query type.

IV. 271 Compliance

Any misses for *Immediate Customer and Competition Affecting measurements* (Table C) must be closely examined by regulators. A limited number of submetrics with deviations of a small magnitude may not be conclusive evidence of overall market suppressing behavior. The regulator must judge on a case-by-case basis whether misses of some of the metrics below for several large or many small CLECs should warrant refusal to grant or to revoke any existing 271 authority. The decision would be based on the magnitude, duration and pattern of poor performance (e.g., reports may indicate particularly poor performance for UNE-P or DSL submetrics, suggesting that the ILEC is targeting entry methods where CLECs are having some success).

The *Lagging Customer and Competition Affecting measurements* (Table D) may also be missed in sufficient quantity or levels of magnitude and duration to warrant a finding that a BOC is not in compliance with section 271 obligations. But there is less likely to be one or two failures that could suppress competition.

TABLE A:

MEASUREMENT FOR WHICH THE STANDARD IS PARITY			
Modified Z Scores:	One Month	Two Months	Three Months
0 to -.65	No Remedy	No Remedy	No Remedy
-.651 to -1.645	No Remedy	1.5X	3X
-1.646 to -2.326	X	1.5X	3X
-2.327 to -3.09	2X	3X	6X
-3.1 or less	3X	4.5X	9X

X = Base Remedy Amount for the specific metric

The modified z score ranges could be different, and the addition of more tiers with higher remedies for lower ranges would be acceptable. AT&T and MCI WorldCom advocate use of ranges of the modified z score.

TABLE B:

MEASUREMENTS FOR WHICH THE STANDARD IS A BENCHMARK			
Type	Base Remedy *	2Xs Base*	3Xs Base*
OSS Response Time	4 seconds to 6 seconds	7 seconds to 15 seconds	> 15 seconds
OSS Availability	98 to 99.4%	95 to 97.9%	< 94.9%
98% Standards	95% to 98%	90 to 94.9%	< 89.9%
95% Standards	90 to 94.9%	85 to 89.9%	< 84.9%
Other Percentage	Less Than 5%	5%-10% difference	10% or more difference
Mean Time To Restore	<10%	10% < 20%	> 20%
Trunk Blockage	1-2 groups miss standard	3-4 groups miss standard	>5 groups miss standard
<p>* These remedies apply to first month performance misses, and are based on the magnitude of the miss. If the ILEC misses the benchmark for two months in a row, the appropriate base amount for the magnitude of the current month miss is multiplied by 1.5. The multiplier for three or more consecutive months of missed performance is 3 times the current month's miss.</p>			

The above chart is illustrative of instances where benchmarks are used but in most instances an analogous ILEC activity can be found to determine if parity exists. These steps can be expanded to increase remedies for more chronic and severe performance failures. AT&T & MCI WorldCom encourage implementation of remedies high enough to deter continuations of poor performance into a third month. But setting a limit on the maximum limit of poor performance may provide a perverse incentive for the ILEC—i.e. if performance is already less than 80% for the month, the ILEC will have no incentive to hold the line if the remedies due would not increase. The above table recognizes that

using only the same percentage difference may not reflect the same level of harm for each type of measurement—i.e. a 10% difference in completion intervals may not be as harmful as a 10% miss of OSS system availability.

TABLE C: IMMEDIATE CUSTOMER & COMPETITION AFFECTING MEASURES

ILEC pays CLEC \$30,000 for performance failures for each of the following performance measurements and all relevant submetrics:

Ordering and Provisioning:

Percent Due Dates Missed (Separately for both Standard Interval and Non-Standard)
Average Offered Interval
Mean Time to Respond (Collocation Space Availability)
Mean Time to Provide/Average Completion Interval (collos, trunks, all resale and UNE categories)
Delay Days - Trunks and collos
Held Orders (15/30/90 days) - other SDMs
Percent Troubles within 30 Days of Install and Other Order Activity
Provisioning Troubles Before Completion
Percent Service Loss from Late Cuts (translations)
Percent Service Loss from Early Cuts (facilities)
% Order Accuracy (CLEC Orders Rekeyed Accurately for Provisioning)
Average Update Interval - E911
Percent Update Accuracy - E911
Order Confirmation Interval & Timeliness
Completion Notice Interval & timeliness
Percent Jeopardies
Reject Interval
CLEC NXXs Loaded and Tested Before LERG effective date

Network Performance:

ILEC Response Interval to Trunk Resizing Requests - Reciprocal Trunks (inbound to CLEC)
% Trunk Blocking – final common and final dedicated

Maintenance and Repair:

Mean Time to Restore
Percent Customer Troubles Resolved within Estimate/Repair
Appointments Met
Trouble Rate
Repeat Trouble Rates
Percent out-of-service greater than 24 hours
Percent out of service greater than (1/4/8/12 hours) trunks

OSS Availability and Quality:

Percent Mechanized Order Flow Through
Percent System Availability
Average Interface Response Time - By type of preordering, ordering, maintenance, exchange access queries with errors/rejections and timeouts measured separately.
On Time Change Management Notice (NY) - by each type of change (1) emergency, (2) regulatory, (3) industry forum, (4) ILEC initiated and (5) CLEC initiated

Recording & Billing:

Mean Time to Provide Recorded Usage Records
Percent Invoice Accuracy and Completeness
Percent Usage Accuracy and Completeness
Percent Bill Errors (DUF) Corrected in X Days (AZ)

TABLE D: LAGGING CUSTOMER & COMPETITION AFFECTING MEASUREMENTS:

ILEC pays CLEC \$20,000 for performance failures for each of the following performance measurements and all relevant submetrics:

OSS/CLEC Service Centers:

Mean Time to Answer Calls (CLEC Help Centers)
Call Abandonment Rate (CLEC Help Centers)
Software Certification Testing (NY)
Average Notification of Interface Outage (CA/PA/NJ)

Ancillary Services:

Operator Services Mean Time to Answer

On Time Response to Requests for Access to Poles, Conduits,
ROWs (TX)
On Time Response to Bona Fide Requests (TX)
Time to Proof/Check ILEC corrections for Directory Listings
Update Interval and Accuracy for DL/DA databases

Ordering and Provisioning:

% Rejects (ILEC Caused)
10-Digit Trigger is Applied X Days Prior to the
LNP Order Due Date (TX metric-on using precaution against
Customer service disruptions in hot cuts)
Percent Completions/Attempts without Notice or with Less than 24
OR % CNR for Late FOC or Other ILEC reason (LCUG -
NY/PA/NJ)

Maintenance:

Mean Time to Notify CLEC (Network Disruption/Restorals Affecting
Customers)
Mean Jeopardy Interval for Maintenance and Trouble Handling

Billing:

Mean Time to Deliver Invoices

E. EXCLUSION ERRORS

Remedies may be pursued if review of raw data shows wrongful exclusion
of data for which inclusion would have shown a performance failure – e.g.,
errors in coding for FOK/TOK/CPE (found OK, test OK, trouble in CPE)
led to excluding CLEC trouble reports from relevant metrics.

REMEDY LEVELS:

The ILEC has the ultimate control over how much is paid. CLECs have
agreed to exclusions of all CLEC-caused reasons for performance failures.
CLECs have agreed to statistical critical values or performance benchmark
levels with percentages of expected compliance that allow some misses
without remedies. The review cap will enable regulators to examine whether
extremely high remedies are justified in light of the performance received.
AT&T and MCI WorldCom recommend that the FCC only endorse self-

executing remedy plans with remedies in compliance with the principles in this document.

The remedy amounts are intended to take into account the cost-benefit analysis the ILECs will undertake, such as the cost of adding personnel, process improvement and training, or capital outlays for OSS or network capacity improvements. Even the remedies proposed above may fall short in the goal of providing an adequate deterrent to an ILEC concluding that paying the remedy is the best economic choice. The ILEC may decide not to spend more money only to improve a competitor's performance for existing customers (e.g., no trunk blocking) and enable growth beyond existing customers. The remedies are intended to take into account the ILEC incentive to prevent competitors from taking away the customer and associated revenues. The remedy levels must be revisited to gauge their deterrent affect if the CLEC's bill for inferior service(s) is actually higher than the base remedies proposed.